

1655
A
Wales
WARNING-PEECE
FOR
ENGLAND.

Being a Discovery of a JESUITICALL Design,
to Dismember *WALES* from *ENGLAND*, to
the ruine of both.

Together with undeniable *Reasons* and *Argu-
ments*, proving the indispenfable neceffity of
Appeals from *Wales* to the Courts at *Westminster*.

By *Certiorar. Writs of Error, Habeas Corpus, Quo minus, &
Subpana's* out of the *Exchequer*, and *Subpana's* out of the
High-Court of *CHANCERY*.

Eftablifhed by feverall Acts of *Parliament*.

Humbly tendred to the Confideration of his *Higneffs* the
LORD PROTECTOR and his *Council*.

By a Well-wifher to the *Peace* and *Tranquility*
of this *NATION*. P.P.

LONDON,

Printed for N. Ekins, and are to be fold at his Shop
in St. Pauls Church-yard, 1655.



IT hath been, and of late, a much used
Maxime, Divide & impera; In order
therunto persons ill-affected to the pub-
like peace, by reflecting too much upon their
own advantages, do imploy their endeavour
to sever Appeals from the Cognizance or Ju-
risdictions of the Courts of Westminster, ther-
by to be within themselves absolute Masters of
their own desires, with little heed looking back
upon the common Enemy, that by these
Wiles insensibly insnare them, under pretence
of advancing themselves, to ruine the whole
Government: For the Wisdom of our Pre-
decessors purchased our Union with much ex-
pence of Blood, Money, and Time, to
prevent those great Inconveniencies that the
inconsiderateness of some, probably of them-
selves

selves excusable, will inevitably draw upon us by an intention they have to petition the Supreme Power, to bar the Inhabitants of Wales of the benefit of those Writs of Appeal, Certiorar. Writs of Error, Habeas Corpus, Quo minus, and Subpænas out of the Exchequer, and Subpænas out of the High Court of Chancery established by so many Acts of Parliament; And for the continuance of an usurped Chancery in Wales, the inconvenience wherof briefly appears by the ensuing Treatise.



A
WARNING-PEECE
FOR
ENGLAND,



So it is sayd of *Tenures*, That all Estates are held *mediatly*, or *immediatly* from the *King*, or *Supream Magistrate*: So it may in as *apposite* a Sense be affirmed of *Judicatory power*, that all *Jurisdiction* is subordinate to the *Supream Authority*: There is and ought to be in one and the same *Common-wealth*, or *Empire*; a certain Scale of *Judicatory* continued in an orderly concatenation of *Superiority* and *Inferiority*, until there be at last a concentration of all in that ultimate Right of *Soveraignty*; He that shall contradict this *Subordination* of *Powers*, seems in my judgment equally *obnoxious* unto *censure*, as those that shall maintain that

that there ought to be no order or degree amongst particular men, all power is either *Ordinary* and *Originall* or *delegated*, and without peradventure the power *delegate* ought to be *dependent* upon that from which it is deduced, to pretend authority in the lower Spheares of *delegated Jurisdiction*, that shall be unresponſall to the *higher* is little better then a criminall and contemptuous arrogance, which truly I can call no leſſe then a degree of Deniall to the *Supremacy* it ſelfe: that the *Summa potestas* ſhould be ſecured with this Life-gard Maxime of Policy, *Immunity of puniſhment and unqueſtionableneſs for Error*: I would readily allow as conceiving it rationall and agreeable to the rules of the Government, for there muſt be a *ſons Juſtitie a Denier* reſort upon whoſe determination all *litigant* and *diſſenting* parties muſt quietly ſit down and acquieſce. But to ſet up particular inferior Magiſtrates, of what condition ſoever in ſuch *Paramount Stations* as to be exempt from the benefit of *appeals*, as it is a *ſoleciſme* in Government without Preſident, ſo would it tend to nothing but to gratifie the *ſupercillious minds* of *corrupt and ambitious men*: and conſequently ſet up ſo many *Exorbitant Dictators* in the place of *Judges* who may exerciſe their *Arbitrary wils* and *tyrannier*, and grind the faces of the people, *cum privilegio*.

'Twere

Twere to be wished that all such as are reall freinds and relate to that *Jurisdiction of Wales* would addresse themselves to those that sit in *Judicature* in the *Welsh Counties* and therby to represent seriously to their consideration how farall and perious a thing it is to any Court or Jurisdiction to seek to advance their own authority by *incroaching upon another power* (especially where that power is the *Superior*) Many fresh instances might be produced in these latter times of severall Courts that have had their downfal from this *Pinacle of Usurpation*. Let the *Councell of the Marches* for all the rest be mentioned for one single *Memorial & monument* of the unhappinesse of this *Error*: other Examples I omit, the truth hereof being notorious enough to the most careles observer. I am really perswaded that 'tis not the unanimous opinion of all those judges that ride the *Welsh Circuits* that those Writs of *Certiorar. Habeas Corpor.* and Writs of *Error &c.* should not be allowed, But am assured that the most of them *Mores Majestati* do acknowledge their *Subordination* and *dependance*, which is an argument to me more cogent, then a *Demonstration* that they that promote this project for abolishing these Writs (for I can call it little better) are agitated & byassed by some private intention to *agrandize* themselves rather then upon pure and honorable

rable principles of *convenientie* and *zeale* to the *publike welfare*, before such attempts as these, tis known those Courts of *Wales* continued in great splendor and reputation, under the power and management of *wise moderate and Learned Judges and Officers*, But if now they shall not containe themselves within their antient *Land-Markes*, those *Earthen potts* may, it is to be feared, be broken in peeces, by dashing against those that are of more solid *Materialls*, what the pretenders of this innovated priviledge (for exempting the inhabitants of *Wales* from appeale upon *Writs* of *Error Habeas Corpor. Certiorar. &c.* (being the antient rights of the people) can say for themselves, is beyond my apprehension to conceive.

To affirme that it is against Law would smell of grosse or willfull Ignorance, or else which is worse, affected Arrogance; For,

1. It is a sufficient reason in *Law* that the practice ever since the erecting the Jurisdiction in *Wales* hath warranted *Certiorar.* and in these times when those parts were supplied with as *learned Judges* as any the Nation afforded, and for writs of *Error* the Statute of *Wales* directs where they shal be brought *Viz.* in *personalls* in the *Marches*; in *mixt* and *real* at *Westminster* as for *Criminall* causes.

It is the opinion of the most *learned Lawyers* of this
 Na-

Nation that Certiorar. upon the Statute of 16 H. 8. cap. 6. do lye in *Wales* for removall of all *Inditements* for *Felony*, *Murther*, *Man-slaughter*, and other *Offences* there committed to be tryed in the next adjacent *English County*. And that by the same Statute any of the *Inhabitants* of *Wales* may be indited and tryed in the next adjacent *English County* for a *Fact* committed in *Wales*.

The practice wherof being frequent in cases arising as well in *North-wales* as *South-wales*, and many *presidents* might be instanced and produced in that behalf: And the words of that Statute are very plain and pregnant to warrant the same; But in case the Statute had been dark or dubious, yet by *implication of Law* an *Appeal* lyeth without expresse provision as out of *Ireland*, *Gallic*, *County Palatine* &c.

2. By the Statute of the 27th. of H. 8. *Wales* and *England* were incorporated, and by the words of that Law, the *Inhabitants* of *Wales* shall have and enjoy all *Rights*, *Franchises*, *Liberties*, *Priviledges*, and *Laws* within *England*, as any of the *Inhabitants* there being born *Subiects* should have, or enjoy.

3. The *Inhabitants* of *England* enjoy the benefit of *Certiorar*, *Habeas Corpora*, *Writs of Error*, *Quominus*, and *Subpœnas* out of the *Exchequer*, and *Subpœnas* out of *Chancery* (which Court ought to be alwaies open for the releife of all *Suitors*.)

and consequently the *Inhabitants* of *Wales* by authority of the sayd Statute ought to enjoy the like *Benefits, Franchises, Liberties, Laws, and Priviledges*; Since which time they have lived peaceably under the same Law & Government, which the most ingenious and knowing amongst them desire still to enjoy; Who cannot but look on the promoters of this innovated *Jurisdiction* amongst them as persons that go to seperate *Wales* from *Eng.* to the *indangering the peace thereof*, and to debarre all *Wales* of those *Priviledges, Lawes and immunities* which were graciously made and established for that benefit, and such as do herein as they have done in other things else do deem themselves to be *enemies to their Native Country and the Peace and Tranquillity thereof*.

4. The Statute of the 34 of H. 8. which establisheth the *Welsh Jurisdiction* is an *affirmative Stat.* and was meerly granted in Favor of *Wales* by way of additionall *Priviledge and Liberty*; But doth not take away those *Lawes, Liberties, and Priviledges* which were established for their benefit by the sayd precedent Statute of 7 H. 8. nor doth abridge them from the benefit of any *Priviledge or Liberty* which they might claim before those Statutes.

5. Tis repugnant to *Reason and common Justice*, that an *Inferiour Court* should be set up that is subject to *erre*, and yet should not be subject to an *Appeal*.

6. The *Jurisdiction of Wales* is derived from the *Crown of England*, and the *Judges* there sit by *Patent* made under the *great Seal of England*. Tis agreeable to reason that the *Chancery* that gives them their *Power* should be capable to send a *Writ of Error* to them and force *obedience*.

7. The *Certiorar.* and *Habeas Corpus* commeth out of the *Upper Bench*, the Court of the *Lord Protector*, where he himself is supposed to sit, and hath *absolute and supreme Authority in Criminall Matters*, and must be obeyed therein upon pain of contempt.

8. It is observed that ever since the *Union of Wales and England*, by the Statute of 27 *H.3.* Writs of *Error*, and *Habeas Corpora*, have never been denied nor opposed by any untill within this two years, by one Mr. *John Corbet* Justice in *Brecon, &c.* A *Writ of Error* was opposed in the case of *Kees Gwyn* Gwyn a. gent. *Gent.* But on full debate therof by learned Council Corbet, Hill. on both sides before the present *Lords Commissioners* 1654. of the *great Seal of England*: Their *Lordships* declared their Opinion that the *Writ of Error* did unquestionably lye and issue into *Wales*, and the *Judges* there ought to yeild *obedience* therto; And the sayd Court imposed severall *Penalties* on the said Mr. *Corbet* for his wilfull contemning the sayd *Writ* and the *Authority* of the *High Court of Chancery*, from whence he received his *Commission*.

9. As for the Writ of *Quo minus* it is warrantable likewise by Law.

Keleway,
138
Quo minus out of
the Exchequer
and
Capias ut
legatum
out of the
common
Pleas issue
into Wales

1. Because in *transitory Actions* a man may sue where he pleaseth.

2. A *Quo minus* is a *Prerogative Writ* found out for releif of the Kings Debtors.

3. The *Principalltie of Wales* is, and alwaies was held of the *Crown of England*, and therfore the Inhabitants therof properly suable before the *Barons* of the *Exchequer* to which place they are Accountants.

4. The liberty of suing in the *Chequer* by *Quo minus*, or *Subpoenas* hath been, time out of mind used and practised without contradiction and without question if the *Inhabitants of Wales* did not find more benefit therby, and more indifferent *just proceedings* there, then in their own Country; it is not probable they would travell so far for *Justice* whilst it is in the choice of the Plaintiff, where he will bring his *Action*, and surely no Plaintiff will probably sue in the *Chequer* without very good cause of *Action* because that Court provideth *costs* for the Defendant suitable to the nature of his *Expence*, and where the *Inhabitants of Wales* should be abridged or debarred of this ancient *Freedom, Liberty, and Priviledges*, no indifferent unbyassed person can afford a satisfactory reason. And the rather because the

matter

matter comes to be tryed in the next adjacent English County, not farr from their own Habitation; nor yet so remote as the late Council at *Marches* was to most parts of *Wales*. And tryals of this nature give great satisfaction both to Plaintiffs and Defendants, when they have choice of learned men to plead their Causes before learned Judges, and able inaffereant iurors of no relation to Plaintiffs or Defendants to try their Causes.

But it is possible that the legality according to the present Constitutions may not be much contradicted, and therefore it must not suffice to rest there, It shall be my next task to make known and discover to those that wil not wilfully hood-wink themselves, the absolute and undispensable necessity of continuing this ancient, laudable, and approved Constitution concerning the removall of Actions or Suits from or beginning them elsewhere, then in *Wales*, where the cause of Suit is first emergent.

And in the first place give me leave to say, I hold this liberty of appeal as great a priviledge as any is comprised within the great Charter of our Freedoms. There are many living whose experience will testify to this Truth, had not their sufferings made them incapable to be produced as Witnesses, and others of foreseeing judgments and perspicacity that will readily maintain that this assertion is not hyper-

bole. For my part I make no difference in relation to every *Englishmans* general Birth-right by the Law, between a *Habeas Corpus*, and these other Writs of *Error Certiorar. Quo minus, & Subpœna* out of the *Chequer* and *Subpœna* out of the *High Court of Chancery*; And how grievous the complaints of the people have been in all times, when Writs of *Habeas Corpora* be obtained; Presidents of former times speak loudly of, and the noise therof hath wrung in all mens eares: But to make the necessity of the present *Position* the more delucidly appear, it will be convenient to descend to some particular *numericall* reasons for the maintenance of it, which may be thus Marshall'd.

1. All County *Jurisdictions* must of necessity be more *obnoxious* to *partialities* in their proceedings, then those that are of more *universall latitude*, they are so circumscribed within so small a Circumference, that the *Judge* although never so upright and vigilant will be more easily abused, the *Jurors* more lyable to be *packed* or *mised*, and the *Witnesses* in all Causes more readily *wrought upon* and *corrupted*.

This reason (as may be supposed) was not the least motive to the late *Parliament* that gave the break-neck to the *Designe* set on foot for *Provincialls*.

So that it is more then apparant the present *Design*

sign to make the Welsh Jurisdiction absolute and independent, tends not only to the deprivement of Wales, of their ancient Rights, Liberties, and Freedoms established by Law, but if granted, would prove a President of dangerous consequence to all the people of England, as herein afterwards is more fully declared.

2. It is very well known to those that are acquainted with the nature and condition of the people of Wales, that before the late Wars, & at this time there were, and are such Family Emulations and Differences for the most part in the severall Counties, that the whole body of them is apt to be cast upon every slight controversie into Factions Confederacies and parties, insomuch that the infection therof doth not only remain amongst the Vulgar and private men, but often times doth attach the very Bench of Justice, and by that means tis not impossible but it may sometime catch hold of the Judge himself.

3. It is observed that since the late Wars, these Differences have been so increased, and the spirits of men so highly provoked, that of late years (as I am informed) the civill, Military, and Ecclesiastick Powers there have been used and converted by some, more for private vindication and revenge on their Neighbours and Country-men, then for the reall discharge of publike trust; Insomuch that the cries of the oppressed have been very loud though helplese, and

and should the Jurisdiction of the *Wales* be made absolute and independent without appeals, then without question all (except such as are intrusted with the Authority) and their Friends and Relations must needs be unsafe in their lives, liberties, and Estates.

4. Those that are conversant with the Welsh Proceedings, do observe, that if the matter concern any person of name or eminence, there is most commonly such relation between the Parties, Jury, and Witnesses either in respect of Blood and Kindred, tenure or other dependence, that some out of wretched simplicity, others out of wilfull perverseness will make but a Cypher of the man upon the Bench, and think they discharge not their duty unless they find for their Kinsman, their friend or Lord.

5. But suppose that the case of controverſie fall out between a Native and an English-man, certainly experience hath taught some that *medietas lingue* is in no case more necessary then here; For the first Inquiry, or whether he be *Engle Cheria* or no, and I may then say without traducing of that Country, that the same Injury or Fact committed upon a Native, will many times not be found so when committed upon an English-man.

Ob. It is be objected, that Appeals to the Courts of Westminster by Habeas Corpora, Certiorar. Writs of Error,

Error, &c. occasion delay, and expence.

An. It cannot be denied by any, but that *delatory Justice* is more desirable then perverted, and the *Appellant* bears the greatest *burthen*, who probably will not *appeal* without good cause to warrant his proceedings therein, for besides his own *charges* he must pay considerable *costs* (if in *civill Causes*) to the other party if he make not good his *Appeal*, if in *criminall Cases*, the charge of bringing it to the test, besides the re-inforcing of the *Judgment* given below, if he fail to make good his *Appeal*, is a sufficient *check* to all *Causelesse Appellants*.

Ob. If it be objected, that Tryals upon *Quo minus*, & *Subpœnas* out of the *Exchequer* are chargeable and *delatory*, because they are transmitted for tryall into *forraign Counties*, and that the *remoteness* of the place is a *discouragement* to parties and their *Witnesses*.

An. 1. That Objection will prove of little force if the *conveniency* of having the same tryed before *indifferent* and *impartiall Judges* and *Jurors* in the next adjacent *County* be duly considered, where *Causes* are determined with *equal* and *quicker dispatches*, then the ordinarie course of Justice in the great *Sessions* of *Wales* doth bear it, where many by reason of experimental *delays* of late used there, are much dis-

couraged to prosecute their Causes.

2. If the extraordinary *charges* of *Appeals* from *corrupt* and *erroneous Verdicts*, and *Judgments*, be taken into consideration, occasioned by the *partiality* and *corruption* of *Sheriffs* and *Jurors*, and others that have the *transacting* of the *peoples causes*, as hath been before demonstrated; with this also, that in case a *Welsh Sheriff* be of the contrary *faction*, or a friend to the Plaintiff or Defendant; such *Jurors* shall be returned, against whom no *exceptions* can be made by *Law*, yet shall bring in a *verdict* rather according to the pleasure of the *Sheriff* and the *parttie* he *adheres* unto, then according to the *truth* and *merits* of the cause.

3. If it be considered where the trial by *Law* is appointed, although not in *vicineta*, yet in *vicino Comitatu* in the neighbour County, although not in the neighbourhood, and it is often seen on trialls in the *Welsh Counties*, the parties are forced sometimes to bring *witnesses* out of *England* 100. or 200. miles, or more, and sometimes out of the remotest partes of *Wales* even to this County of *Montgomery*.

4. The contrivers and promoters of *Cantonizing Wales* to serve their own ambitious ends, do not only go about to deprive the Inhabitants

tants of *Wales* of the benefit of *Certiorari*. *Habeas Corpora*, *Writs of Error*, *Quo minus*, *Subpoenas*, out of the *Exchequer*; But would also make themselves *Lord Chancellors*, as well as *Lords cheif Iustices of Wales*, and that no *Appeale* might be hereafter made by any of the *Inhabitants of Wales* to the *High Court of Chancery* for the review or reversal of any decree, or other proceeding in the pretended court of *Chancery* there held, nor any address to the said *High Court of Chancery*, by any of the *Inhabitants of Wales*, for releif upon *Originall bills* there filed, touching any matters *reall, personal*, or *mixt*, relating to *Wales*; all which sufficiently testifieth the *pride*, *ambition*, and *exorbitant thoughts* and *purposes* of these *Innovators*, to make themselves sole and *arbitrary Judges*, both of *Law* and *equity* in all causes *criminall* and *civill*, to the indangering of the *lives*, *liberties*, and *estates* of all such as are not, or shal not be intrusted with this *Paramount authority*, or are not or shall not be of relation to them.

Whereas in truth if their *Chancery Jurisdiction* be but inquired into, they have not the least colour, much lesse *Commission* or *authority* to hold such a *Jurisdiction* as they now do, and

for some late yeares have usurped as I humbly conceive for these reasons.

1. The *Judges of Wales* have not any power either by the *Stat. of Wales* or their *Commissions* to hold a court of *chancery*, nor yet by any ancient *custom* or *Prescription*; but its beginning was from the *Councell* of the *Marches* now abolished on meer references transferred unto them, wherby color therof first retained *petitions* and afterwards *bills* in equity, neither can they produce especially in *South-wales* one bill in equity preferred in this pretended Court of (*chancery* in *Wales* of 50. years standing, there being many living that well remember the time when no such bills were retained but only equitable rules made at common law, either by the mutual consent or upon submission of the parties

2. There are no *Officers* settled nor *sworn*, nor any set *Fees* established in this *welsh Chancery* by any *Law* or *legall* authoritie, other then what the *Judges* there for some late yeares arbitrarily have erected, whereas the *Fees* and *Officers* in reference to their *Common-Law Jurisdiction* are certaine and prefixed by the *Statutes of Wales*.

3. The *Welsh Chancery* is a *paper Court* where there

there are no *records* or inrolments kept of their proceedings, but their paper *Records* as they cal them, are commonly carried by *Client*, *Solicitor*, and *Attorney*, from place to place in their pockets, and often left and some times made use of to light Tobacco.

4. It is questionable whether any person can be questioned or *Indicted* for *perjury* committed in this *Court*, wherby the same may become a *Nursery* for *Perjury*, w^{ch} is a reason given by some that know the Country, why *Perjury* is so frequent in some of those partes

5. To a Court of *equitie* a distinct *Seale* ought to appertain, to seale all their *writs* and inforce *obedience* to their proceedings: But to this pretended Court of *equity* no such *Seal* appertaineth, yet assume they power to seale their *Chancery writs* with the *indictall Seal*, and thereto affix green wax, which is solely ordained by the Statute of 34. *Et. 8.* to Seale *Judicial writs* and not *Chancery writs*, and therefore as well may the *Judges* of the *Upper Bench* or *Common Pleas* or the *Officers* intrusted with the *Scales* therof affix green wax to the *Writs* Issuable out of the Highest Court of
Chancery

Chancery, and seal the same with their proper seal, and take the *Fees* due for the same, as the said *Iustices* or their *Clarks* may seale the *Writs* or *mandats* which they Issue out of their pretended *Chancery*, with their *Common-law Seale* by which they cannot inforce *obedience* to their pretended *Chancery Jurisdiction*, and so consequently their Orders and Decrees are of no force, but the people exposed to fruitless trouble and expences, and that which can attain to no reasonable end, the Law rejects as a thing *inutile* and *usel-ſſe*, *Sapiens incipit a fine.*

6. The High Court of *Chancery* time out of mind and memory of man, nay ever since the establishment of the *Jurisdiction* of *Wales*, on Bills exhibited there, have and do retain the same and give *reliefe* therein, notwithstanding any *Decree*, *Order* or *Proceedings* in the pretended *Chancery* of *Wales*, against whose proceedings the said Court have, and do grant *Injunctions* untill the hearing of the cause which were never disobeyed nor contradicted; nor such proceedings found inconvenient untill within this 12. months, a Judge then and now in *Wales* drew
a Plea

a Plea of a *decree* made before himself, in Bar of a bill exhibited in the High Court of *Chancery*, for releif of the same matter, but got another Counsel to signe it, which being argued before the *Lords Commis.* and endeavored to be maintained by two *Welsh Counsellors*, that take upon them to be the principall upholders of this *usurped jurisdiction* yet their *Lord^{ss}* overruled and ordered the *Defendants* to answer in cheif, and granted an *Injunction* for stay of the proceedings in the *Chancery of Wales*, for the matters here complained of, untill hearing of the cause.

Owens *c.*
against Tho-
mas Hil-
lar, 1654.

7. There are *Presidents* that may be likewise produced of *Prohibitions* Issued out of the Courts of *Upper Bench* and *Common Pleas*, against the pretended *Chancery of Wales*.

8. A Court of *Equity* cannot be erected by grant or *prescription*, but only by *Act of Parliament*; and yet the *Chancery in Wales* hath neither grant nor *prescription* nor *Act of Parliament* for its support, wherof the *Judges of Wales* being deeply sensible, and of the danger of incurring the penalties imposed by the severall *Statutes* for *Premunire* in cases of like nature, have not untill now of late taken upon them

Hobart 5.
87 Mac-
rin and
Marshall,
Dyer 172
1 pr.
Scroggs
Case.

them the authority to make any *finall* or *decretall Orders*, without the orders themselves were first signed by the Counsel & Attorneys on both sides wherby the same were indeed made rather *orders by consent* of both parties their *Counsell* and *Attorneys*, then any *finall* or *decretal* orders by a *Chancery Jurisdiction* which indeed gives them no more *authority* then if the matter were referred by consent of all parties by way of *Arbitration* to ordinary *Arbitrators*, and how farr any have acted beyond their Commission or contrary to the Statutes for *Premunire*; is humbly submitted to consideration, there being no Register there untill of late.

8. To give the *Judges of Wales* the power of *Law* and *equity* in all cases *criminall* and *civill*, without *Appeals* to *Westminster*; is such a *Jurisdiction* that the wisdom of former ages never yet thought safe to intrust to any persons of never so much integrities & abilities, nor any could be found so immodest as to accept much lesse to desire it, until few of late, and it is well hoped that the *supream Authority* will take special notice of the contrivers & promoters of this *design* being a few out of *Brecknock Shire*, where *John Corbet Esq.* doth ride as *sole Justice*; is upon
occasion

occasion of a murder ther lately committed by some that are of neer relation to those that carry on this design, with an intention to smother this murther, and save the lifes of few from the power of Justice, with the vtter ruine of the whole Country, as is herein after more fully discovered.

The granting such a power of *Law* and *equity* in one or more persons, is to set up *Arbitrarines*, and to destroy the *fundamental Lawes* of *England*; as *Magna Charta*, the *Petition of right*, and *tryals* by 12. men &c. For after a *verdict* at *Law* the same person that sits as *Judge* thereof, may if he please, as *Chancellor* stop *Iudgment*, or after *Iudgment* stay *Execution*, or if he please stop the *tryall* it self, and in one mans case *Administer* the *strictnes* of *Law*, but in another mans case of the same nature, *Administer* his own *will* for *rules of equitie*: And so carry fire in one hand, and water in another hand, being indeed a power that many *learned honest conscientious* men would not accept off, if offered unto them, as *Inconsistent* w^h the *rules of good government* in the due *administration of justice*; & if once this power was erected in *Wales*; then by the same rule of *Law* & reason may some *ambitious*

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tious persons petition for establishing the like *Jurisdiction* in all other parts of this Nation that are but 30. or 40. miles distant from London, & thereby reduced the whole Nation into severall *Provinces* under an *Arbitrary mixt power* of *Law* and *equity* in one and the self same persons, to the subversion & overthrow of the *Fundamental rights, laws, liberties, and freedoms* of England. Far be it from any sober man as much as to imagine that the *Wisdom* and *Justice* of his *Hignes* the Lord Protector and his Counsel wil ever condescend to such unsafe destructive Attempts, the effecting wherof would not only draw a *ruine insensibly* upon the whole Nation; But endanger the very *Root of Government*.

Whereas, now the *Supream Magistrate* hath the mediate overseeing of all the *Judges* proceedings in *Westminster-Hall* and they have an *inspection* into the proceedings of all *delegated* and *subordinate Judges* and *Officers*, and a power to releive the *innocent* and *oppressed* and punish the *guilty*; wherby the *Supream Magistrate* may oversee the proceedings of all the *Judges* of *England* and *Wales*, in and through the *Crystall Fountaine* of *Iustice* w^{ch} alwayes ought to flow from the Courts at *Westminster* for the releiving and refreshing of all the *oppressed injured* people

people of the *Nation*; and therby the *Supream Magistrate* is the better enabled as *Iudge* over all *Iudges* to discern and determine such differences as shall or may arise either between the people or the severall *Courts* and *Jurisdiction* of the *Nation* and *Administer equal right and Justice* to all the people under his Highness *Government* and *Protection*.

But least this discourse might fall into the hands of some incredulous persons that are no wayes concerned to take notice of the manner of the proceedings in *Wales*; give me leave to present to your consideration, three *Affidavit*, the Original wherof remain of record in the Chancery, and upper Bench; which will in great measure fortifie the veritie of the foregoing conclusions, and I dare affirm, if all other passages of like nature that have happened in the great Sessions held in those parts, this little treatise would swel into too great a Volume.

Thomas Watkins of *Bulith* in the County of *Brecon*. Gent. maketh Oath that *Elizabeth Williams* mother of *Roger Price* late deceased finding one *Jeffery Williams* at the last Epiphany Quarter Sessions held in *Brecon* did in

Court lay hands on him and charged him with the murder of the said *Roger Price* her son, and acquainted the Justices, of the peace then and there sitting, that the said *Roger Price* was dead of the stab, and wounds received of the said *Jeffery Williams*, *Hugh Williams* his brother, *David Williams*, and *Samuel Thomas*, and prayed the Justices to commit the said *Jeffery Williams* then & ther present to the Goal, whereby he might be proceeded against according to law; Nevertheless the said *Jeff. Williams* was left at liberty upon ordinary Bayl to appear at the last great Sessions for the County of *Brecon*. and the said *Jeffery Williams* hath since been permitted to ride armed with his sword, and the said *David Williams* with a fouling peece to the great terror of the mother, wife and freinds of the said *Roger Price*, and the said *David Williams* having threatned *Thomas Phillips* brother to the said *Roger* for appearing for the *Lord Protector* against him, and the rest of the offenders in order to the bringing them to a faire tryall; And the said *David Williams* did shoulder and jostle *Elizabeth Williams* the mother whilst she was going peaceably in the street, that the said *Elizabeth Williams* taking
notice

notice of the premises and of the great Countenance given the malefactors, finding their power and interest to be too potent for the Prosecutor in the said County of *Brecon*. where she could not hope for a faire and indifferent tryall and proceedings against them, did imploy this Deponent being uncle to the said *Roger price* to sue out a *Certiorar*. out of this Court for removing the Coroners Inquisition to this Court in order to a fair tryall, in an indifferent English County, who on security given to prosecute with effect, obtained the same, & delivered the said writ to the Coroner, since the Inquisition made, by which the said parties were found guilty of Man-slaughter on the Statute of stabbing, of the first of *King James*: since which time at the last great Sessions held at *Brecon*. before *John Corbet* Esq. Justice there, the said Mr. *Corbet* was moved in open Court that the said *Ieffery Williams* then and there present in Court might stand committed according to Law, and acquainted Mr. *Corbet* that the Inquisition was found, whereupon Mr. *Corbet* seeming highly displeased with the removal thereof, did check and discountenance the prosecutors Counsel and permitted other Counsel to speak against the said writ.

writ and removall of the Inquisition, and *Edmond Jones* Esq. Attorney Generall there for the Lord Protector, not speaking one word in behalf of the Lord Protector, and the Prosecutors in that behalf; but on the contrary moved that the said *Jeff. Williams* might stand on his bayl; And further deposeth that the said Mr. *Corbet* committed the said *Elizabeth Williams* mother of the said *Roger Price*, and one of the Prosecutors and suffered the said *Jeff. Williams* to go at liberty on his bayl, and did not as much as Issue a Warrant to apprehend any of the said Offenders; but did also so far appear against the Prosecutors and the Interest of the Lord Protector that he checked the Coroner and called him a knave and examined him against himself on oath in court meerly for his careful discharge of his duty on the Lord Protectors behalf: as this Deponent verily believeth; & the said M. *Corbet* did examin the foreman of the Jury in open Court against the Coroner & the Lord Protectors Interest, & against himself as this Deponent taketh it, and afterwards privatly examined him in his Chamber, and refused to Administer an oath to the said *Elizabeth Williams* on her *Affidavit* produced in writing touching the

the Premises, a true Coppy wherof is hereto
 annexed although the said *Elizabeth* did ren-
 der her self to be sworn to the truth therof, first
 in his Chamber, and afterwards in open Court
 who then kept the same: Wherfore, and by rea-
 son of the potency of the Malefactors in the
 said County this deponent being Uncle to the
 said *Roger Price* deceased, and one of the
 Prosecutors for the Lord Protector cannot
 hope, or expect to obtaine Justice, or any fair
 or indifferent proceedings in the said County
 of *Brecpn.* against the said Malefactors, for the
 said horrid murther wherof they stand as a-
 fore said indicted; And the rather in regard
John Williams Esq. late high Sheriff of the said
 County being brother to 2. of the said Malefa-
 ctors; and *Edm. Iouis* Attorney Gen. there, being a
 special friend to the said *Jo Williams* & his bro-
 thers, who contrary to his duty the last great
 Sessions neglected the Prosecution of the said
 Malefactors; And further depoleth that he
 was credibly informed that the said Male-
 factors and their Complices did way lay this
 deponent to take away his life, in his Journey
 to London this term.

Sworn the 15th. day of May,
 1655. before me Hen: Roll.

Thomas Watkins.

Rees Gwyn of Llanilloelvell in the county of Brecon. Gent. maketh oath that this deponent being indicted for Barrettry in the County of Brecon. upon the malicious Prosecution of some of his adversaries, and finding his Prosecutors too potent in that County; where he could not expect to receive an indifferent and faire tryal, this Deponent did sue forth a *Certiorar*. out of this Court of Vpper Bench returnable Michalemas Term 1653. in order to a fair tryal in an indifferent County, and delivered the same with the Fee to *John Corbet* Esq. then, and yet Justice there, who allowed the same; & this deponent paid the Prothonotaries Fees for certifying the Record, that this deponent being before taken on proces to appear that Sessions, and having given bond to the Sheriff for that purpose, and appeared, and had his writ of *Certiorar*. as aforesaid, allowed; The said *John Corbet* did afterwards threaten to extreat the said Bond, unless this Deponent would wave his *Certiorar*. which he was forc'd to do to save the suing of his said Bond, which nevertheless was sued: And this Deponent coming to tryall on his Traverse, and twenty four able men returned by the Sheriff, the said *John Corbet* did lay

lay aside the said Jury, and caused another Jury to be immediatly Impanelled, who were many of them, this Deponents professed Enemies, and one of them; *Viz. William Vaughan*, one of the grand Jury-men who had first found the Bill, by which means this Deponent was found guilty, and fined by the said *Iohn Corbet* 200 *l.* and ordered to be Imprisoned untill he should pay it. And after some time of restraint this Deponent was discharged out of Prison, with a purpose, as this Deponent believeth, to levy the Fine on his Estate, which in part was effected, and about the value of 40 *l.* of his Goods seised, and sold for about 16 *l.* wherby he endured a double punishment for one supposed Crime, and this Deponent having since by advice of Counsell taken out a Writ of Error in this cause, returnable in *Hillary Term* last, did deliver the same to the said *Iohn Corbet* at his own then dwelling place, and tendred him his Fee which he refused to allow; And in *Hillary Term* last, this Deponent renewed the said Writ returnable in *Easter Term* last, and again tendred him the Writ and his Fee at his then dwelling place, which he refused then to allow: But wished this Depo-

nent to tender it in Court at *Brecon*. Sessions then next following, and there he would allow it. In pursuance wherof this Deponent did in *Brecon*. Sessions held in *April* last, as well in his Chamber as in open Court, tender him the said Writ & his fee, which he refused to allow.

And this Deponent further deposeth, that on his said enlargement he was forced to be bound with two able Sureties in a Recognizance of 400 *l.* for his appearance the first day of the last great Sessions in *Brecon*. and in the mean time to be of the good behavior; Notwithstanding this Deponent, hath, as he doubts not but to make appear, performed the Condition of the said Recognizance, and duly appeared and attended in Court every day of that Sessions, and untill it was adjourned, yet since there is a *Scirifacias* sued out on the said Recognizance. By all which waies and means, this Deponent is in danger to be ruined in his Person, Credit, and Estate; The said *John Corbet* having declared, he would address himself to all the Judges of *Westminster*, and would use his utmost endeavour to have this Cause determined and concluded, by, and before himself and none other. And this Deponent is credibly informed,

formed, and doubts not to make it appeare, that the said *John Corbet* so far appeared herein against this Deponent, that he solicited the extending of this Deponents Lands and Goods for the payment of the said Fine, and applyed himself to severall persons for that purpose.

*Sworn 7th: day of June, 1654.
before me Hen: Roll.*

Rees Gwyn.

*Between Rees Gwyn Gent. Plaintiff, John Corbet Esq;
Defendant.*

THe Plaintiff *Rees Gwyn* maketh oath that since he this Deponent delivered the first writ of Error unto the Defendant, *Corbet* (w^{ch} was in *Michaelmas* Term 1653.) he this deponent hath expended in Journyes to London, and otherwise, to force the Defendant to return the Writ of Error and Record into this Court of Vpper-Bench, above one hundred pounds, and upon the delivery of the last Writ of Error to the Defendant he demanded his Fee for allowing the writ in a jeering manner, using these words in open Court *No penny no Pater Noster*; And although his Marshal in his presence and by his approbation received six shillings eight pence as a Fee therin, he the said *John Corbet* hath not yet returned the same, though.

though he then promised to return it. All which tends to this deponents great damage and prejudice.

Sworn the 22. day of Feb.

1654 Edwin Rich.

Rees Gwyn.

THese things being premised what man of reason can esteem it convenient to *debar* that Nation of so high a Birth-right as the benefit of *Appeals* to the Courts at *Westminster*, by *Certiorar*, *Habeas Corpus*, *Writs of Error*, *Quominus* and *Subpenas* out of the *Exchequer*, and *Subpenas* out of the High Court of *Chancery*.

To conclude all, if this ancient Right and Freedom be taken away, the *Inhabitants* of *Wales* will be deprived of the most considerable branch of *liberty* that belongeth unto them, & I am perswaded, & partly know, that many of the most *ingenious* amongst them, & of *considerable estates* there, will be inforced to sell their *Inheritances*, & forsake their own native Country: rather then live under such an *Arbitrary power* as is herein before demonstrated, which to a noble or ingenious mind will be a greater bondage then to serve in the *Gallies* as a conquered Slave.

FINIS.